SUPREME COURT OF THE UNITED STATES

No. 430.—October Term, 1961.

Samuel M. Atkinson, et al., Petitioners, *v.* Sinclair Refining Company.	On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

[June 18, 1962.]

Mr. Justice White delivered the opinion of the Court.

The respondent company employs at its refinery in East Chicago, Illinois, approximately 1,700 men, for whom the petitioning international union and its local are bargaining agents, and 24 of whom are also petitioners here. In early February 1959, the respondent company docked three of its employees at the East Chicago refinery a total of $2.19. On February 13 and 14, 999 of the 1,700 employees participated in a strike or work stoppage, or so the complaint alleges. On March 12, the company filed this suit for damages and an injunction, naming the international and its local as defendants, together with 24 individual union member-employees.

Count I of the complaint, which was in three counts, stated a cause of action under § 301 of the Taft-Hartley Act (29 U. S. C. § 185) against the international and its local. It alleged an existing collective bargaining agreement between the international and the company containing, among other matters, a promise by the union not to strike over any cause which could be the subject of a grievance under other provisions of the contract. It was alleged that the international and the local caused the strike or work stoppage occurring on February 13 and 14 and that the strike was over the pay claims of three employees in the amount of $2.19, which claims were properly subject to the grievance procedure provided by

the contract. The complaint asked for damages in the amount of $12,500 from the international and the local.

Count II of the complaint purported to invoke the diversity jurisdiction of the District Court. It asked judgment in the same amount against 24 individual employees, each of whom was alleged to be a committeeman of the local union and an agent of the international, and responsible for representing the international, the local, and their members. The complaint asserted that on February 13 and 14, the individuals, "contrary to their duty to plaintiff to abide by such contract, and maliciously confederating and conspiring together to cause the plaintiff expense and damage, and to induce breaches of said contract, and to interfere with performance thereof by the said labor organizations, and the affected employees, and to cause breaches thereof, individually and as officers, committeemen and agents of said labor organizations, fomented, assisted and participated in a strike or work stoppage . . . ."

Count III of the complaint asked for an injunction but that matter need not concern us here since it is disposed of in *Sinclair Refining Co.* v. *Atkinson, post,* —, decided this day.

The defendants filed a motion to dismiss the complaint on various grounds and a motion to stay the action for the reasons (1) that all of the issues in the suit were referrable to arbitration under the collective bargaining contract and (2) that important issues in the suit were also involved in certain grievances filed by employees and said to be in arbitration under the contract. The District Court denied the motion to dismiss Count I, dismissed Count II, and denied the motion to stay (187 F. Supp. 225). The Court of Appeals upheld the refusal to dismiss or stay Count I, but reversed the dismissal of Count II (290 F. 2d 312), and this Court granted certiorari (368 U. S. 937.

I.

We have concluded that Count I should not be dismissed or stayed. Count I properly states a cause of action under § 301 and is to be governed by federal law. *Local 174* v. *Lucas Flour Co.*, 369 U. S. 95, 102–104; *Textile Workers* v. *Lincoln Mills*, 353 U. S. 448. Under our decisions, whether or not the company was bound to arbitrate, as well as what issues it must arbitrate, is a matter to be determined by the Court on the basis of the contract entered into by the parties. "The Congress . . . has by § 301 of the Labor Management Relations Act, assigned the courts the duty of determining whether the reluctant party has breached his promise to arbitrate. For arbitration is a matter of contract and a party cannot be required to submit to arbitration any dispute which he has not agreed so to submit." *United Steelworkers* v. *Warrior & Gulf Nav. Co.*, 363 U. S. 574, 582. See also *United Steelworkers* v. *American Mfg. Co.*, 363 U. S. 564, 570–571 (concurring opinion). We think it unquestionably clear that the contract here involved is not susceptible to a construction that the company was bound to arbitrate its claim for damages against the union for breach of the undertaking not to strike.

While it is quite obvious from other provisions of the contract [1] that the parties did not intend to commit all

[1] The no-strike clause (Article 3) provides that "There shall be no strikes . . . (1) for any cause which is or may be the subject of a grievance . . . or (2) for any other cause, except upon written notice by the Union to the Employer . . . ." Article 27, covering "general disputes," provides that disputes which are general in character or which affect a large number of employees are to be negotiated between the parties; there is no provision for arbitration. Moreover, the management-prerogative clause (Article 31) recognizes that "operation of the Employer's facilities and the direction of the working forces, including the right to hire, suspend or discharge for good

of their possible disputes and the whole scope of their relationship to the grievance and arbitration procedures established in Article 26,[2] that article itself is determinative of the issue in this case since it precludes arbitration boards from considering any matters other than employee grievances.[3] After defining a grievance as "any difference regarding wages, hours or working conditions between the parties hereto or between the employer and an employee covered by the working agreement," Article 26 provides that the parties desire to settle employee grievances fairly and quickly and that therefore a stated procedure "must be followed." The individual employee is required to present his grievance to his foreman, and if not satisfied there, he may go to the plant superintendent who is to render a written decision. There is also provision for so-called Workmen's Committees to present

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and sufficient cause and pursuant to the seniority Article of this agreement, the right to relieve employees from duties because of lack of work are among the sole prerogatives of the employer; provided, however, that . . . such suspensions and discharges shall be subject to the grievance and arbitration clause . . . ."

[2] Article 26 is set out in full *infra*, at p. —, as an Appendix.

[3] We do not need to reach, therefore, the question of whether, under the contract involved here, breaches of the no-strike clause are "grievances," *i. e.*, "differences relating to wages, hours, or working conditions," or are "grievances" in the more general sense of the term. See *Hoover Express Co.* v. *Teamsters Local, No. 327*, 217 F. 2d 49 (C. A. 6th Cir.). The present decision does not approve or disapprove the doctrine of the *Hoover* case or the Sixth Circuit cases following it (*e. g.*, *Vulcan-Cincinnati, Inc.*, v. *United Steelworkers*, 289 F. 2d 103; *United Auto Workers* v. *Benton Harbor Indus.*, 242 F. 2d 536). See also cases collected in *Yale & Towne Mfg. Co.* v. *Local Lodge No. 1717*, — F. 2d —, — nn. 5, 6 (C. A. 3d Cir.). In *Drake Bakeries, Inc.*, v. *Local 50, post*, —, decided this day, the question of arbitrability of a damages claim for breach of a no-strike clause is considered and resolved in favor of arbitration in the presence of an agreement to arbitrate "all complaints, disputes or grievances arising between them [*i. e.*, the parties], involving . . . any act or conduct or relation between the parties."

grievances to the local management. If the local superintendent's decision is not acceptable, the matter is to be referred for discussion between the President of the International and the Director of Industrial Relations for the company (or their representatives), and for decision by the Director alone. If the Director's decision is disputed, then "upon request of the President or any District Director" of the international, a local arbitration board may be convened and the matter finally decided by this board.

Article 26 then imposes the critical limitation. It is provided that local arbitration boards "shall consider only individual or local employee or local committee grievances arising under the application of the currently existing agreement." There is not a word in the grievance and arbitration article providing for the submission of grievances by the company. Instead, there is the express, flat limitation that arbitration boards should consider only employee grievances. Furthermore, the article expressly provides that arbitration may be invoked only at the option of the union. At no place in the contract does the union agree to arbitrate at the behest of the company. The company is to take its claims elsewhere, which it has now done.

The union makes a further argument for a stay. Following the strike, and both before and after the company filed its suit, 14 of the 24 individual defendants filed grievances claiming reimbursement for pay withheld by the employer. The union argues that even though the company need not arbitrate its claim for damages, it is bound to arbitrate these grievances; and the arbitrator, in the process of determining the grievants' right to reimbursement, will consider and determine issues which also underlie the company's claim for damages. Therefore, it is said that a stay of the court action is appropriate.

We are not satisfied from the record now before us, however, that any significant issue in the damage suit

will be presented to and decided by an arbitrator. The grievances filed simply claimed reimbursement for pay due employees for time spent at regular work or processing grievances. Although the record is a good deal less than clear and although no answer has been filed in this case, it would appear from the affidavits of the parties presented in connection with the motion to stay that the grievants claimed to have been disciplined as a result of the work stoppage and that they were challenging this disciplinary action. The company sharply denies in its brief in this Court that any employee was disciplined. In any event, precisely what discipline was imposed, upon what grounds it is being attacked by the grievants, and the circumstances surrounding the withholding of pay from the employees are unexplained in the record. The union's brief here states that the important issue underlying the arbitration and the suit for damages is whether the grievants instigated or participated in a work stoppage contrary to the collective bargaining contract. This the company denies and it asserts that no issue in the damage suit will be settled by arbitrating the grievances.

The District Court must decide whether the company is entitled to damages from the union for breach of contract. The arbitrator, if arbitration occurs, must award or deny reimbursement in whole or in part to all or some of the 14 employees. His award, standing alone, obviously would determine no issue in the damage suit. If he awarded reimbursement to the employees and if it could be ascertained with any assurance [4] that one of his subsidiary findings was that the 14 men had not participated in a forbidden work stoppage—the critical issue according to the union's brief—the company would never-

[4] Arbitrators generally have no obligation to give their reasons for an award. *United Steelworkers* v. *Enterprise Corp.*, 363 U. S. 593, 598; *Bernhardt* v. *Polygraphic Co.*, 350 U. S. 198, 203. The record of their proceedings is not as complete as it is in a court trial. *Ibid.*

theless not be foreclosed in court since, even if it were bound by such a subsidiary finding made by the arbitrator, it would be free to prove its case in court through the conduct of other agents of the union. In this state of the record, the union has not made out its case for a stay.[5]

For the foregoing reasons, the lower courts properly denied the union's motion to dismiss Count I or stay it pending arbitration of the employer's damage claim.

II.

We turn now to Count II of the complaint, which charged 24 individual officers and agents of the union with breach of the collective bargaining contract and tortious interference with contractual relations. The District Court held that under § 301 union officers or members cannot be held personally liable for union actions, and that therefore "suits of the nature alleged in Count II are no longer cognizable in state or federal courts." The Court of Appeals reversed, however, ruling that "Count II stated a cause of action cognizable in the courts of Indiana and, by diversity, maintainable in the District Court."

We are unable to agree with the Court of Appeals, for we are convinced that Count II is controlled by federal

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[5] The union also argues that the preemptive doctrine of cases such as *San Diego Bldg. Trades Council* v. *Garmon*, 359 U. S. 236, is applicable and prevents the courts from asserting jurisdiction. Since this is a § 301 suit, that doctrine is inapplicable. *Local 174* v. *Lucas Flour Co.*, 369 U. S. 95, 101 n. 9.

We put aside, since it is unnecessary to reach them, the questions of whether the employer was excused from arbitrating the damage claim because it was over breach of the no-strike clause (see *Drake Bakeries, Inc.*, v. *Local 50, post*, —, decided this day) and whether the underlying factual or legal determination, made by an arbitrator in the process of awarding or denying reimbursement to 14 employees, would bind either the union or the company in the latter's action for damages against the union in the District Court.

law and that it must be dismissed on the merits for failure to state a claim upon which relief can be granted.

Under § 301 a suit for violation of the collective bargaining contract in either a federal or state court is governed by federal law (*Local 174* v. *Lucas Flour Co.*, 369 U. S. 95, 102–104; *Textile Workers Union* v. *Lincoln Mills*, 353 U. S. 448), and Count II on its face charges the individual defendants with a violation of the no-strike clause. After quoting verbatim the no-strike clause, Count II alleges that the 24 individual defendants "contrary to their duty to plaintiff to abide by" the contract fomented and participated in a work stoppage in violation of the no-strike clause. The union itself does not quarrel with the proposition that the relationship of the members of the bargaining unit to the employer is "governed by" the bargaining agreement entered into on their behalf by the union. It is universally accepted that the no-strike clause in a collective agreement at the very least establishes a rule of conduct or condition of employment the violation of which by employees justifies discipline or discharge (*Mastro Plastics Corp.* v. *Labor Board*, 350 U. S. 270, 280 & n. 10; *Labor Board* v. *Rockaway News Co.*, 345 U. S. 71, 80; *Sands Mfg. Co.* v. *Labor Board*, 306 U. S. 332; *Labor Board* v. *Draper Corp.*, 145 F. 2d 199 (C. A. 4th Cir.); *United Biscuit Co.* v. *Labor Board*, 128 F. 2d 771 (C. A. 7th Cir.); see *R. R. Donnelley & Sons Co.*, 5 Lab. Arb. 16; *Ford Motor Co.*, 1 Lab. Arb. 439). The conduct charged in Count II is therefore within the scope of a "violation" of the collective agreement.

As well as charging a violation of the no-strike clause by the individual defendants, Count II necessarily charges a violation of the clause by the union itself. The work stoppage alleged is the identical work stoppage for which the union is sued under Count I and the same damage is alleged as is alleged in Count I. Count II states that the individual defendants acted "as officers, committeemen

and agents of said labor organizations" in breaching and inducing others to breach the collective bargaining contract. Count I charges the principal, and Count II charges the agents for acting on behalf of the principal. Whatever individual liability Count II alleges for the 24 individual defendants, it necessarily restates the liability of the union which is charged under Count I, since under § 301 (b) the union is liable for the acts of its agents, under familiar principles of the law of agency (see also § 301 (e)). Proof of the allegations of Count II in its present form would inevitably prove a violation of the no-strike clause by the union itself. Count II, like Count I, is thus a suit based on the union's breach of its collective bargaining contract with the employer, and therefore comes within § 301 (a). When a union breach of contract is alleged, that the plaintiff seeks to hold the agents liable instead of the principal does not bring the action outside the scope of § 301.[6]

Under any theory, therefore, the company's action is governed by the national labor relations law which Congress commanded this Court to fashion under § 301 (a). We hold that this law requires the dismissal of Count II for failure to state a claim for which relief can be granted—whether the contract violation charged is that of the union or that of the union plus the union officers and agents.

When Congress passed § 301, it declared its view that only the union was to be made to respond for union

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[6] *Swift & Co.* v. *United Packinghouse Workers*, 177 F. Supp. 511 (D. Colo.). Contra, *Square D Co.* v. *United E. R. & M. Wkrs.*, 123 F. Supp. 776, 779–781 (E. D. Mich.). See also *Morgan Drive Away, Inc.*, v. *Teamsters Union*, 166 F. Supp. 885 (S. D. Ind.), concluding, as we do, that the complaint should be dismissed because of §§ 301 (b) and 301 (e), but for want of jurisdiction rather than on the merits. Our holding, however, is that the suit is a § 301 suit; whether there is a claim upon which relief can be granted is a separate question. See *Bell* v. *Hood*, 327 U. S. 678.

wrongs, and that the union members were not to be subject to levy. Section 301 (b) has three clauses. One makes unions suable in the courts of the United States. Another makes unions bound by the acts of its agents according to conventional principles of agency law (cf. § 301 (e)). At the same time, however, the remaining clause exempts agents and members from personal liability for judgments against the union (apparently even when the union is without assets to pay the judgment). The legislative history of § 301 (b) makes it clear that this third clause was a deeply felt congressional reaction against the *Danbury Hatters* case (*Loewe* v. *Lawlor*, 208 U. S. 274; *Lawlor* v. *Loewe*, 235 U. S. 522), and an expression of legislative determination that the aftermath (*Loewe* v. *Savings Bank of Danbury*, 236 F. 444 (C. A. 2d Cir.)), of that decision was not to be permitted to recur. In that case, an antitrust treble damage action was brought against a large number of union members, including union officers and agents, to recover from them the employer's losses in a nationwide, union-directed boycott of his hats. The union was not named as a party, nor was judgment entered against it. A large money judgment was entered, instead, against the individual defendants for participating in the plan "emanating from headquarters" (*id.*, at 534), by knowingly authorizing and delegating authority to the union officers to do the acts involved. In the debates, Senator Ball, one of the Act's sponsors, declared that § 301, "by providing that the union may sue and be sued as a legal entity, for a violation of contract, and that liability for damages will lie against union assets only, will prevent a repetition of the Danbury Hatters case, in which many members lost their homes" (93 Cong. Rec. 5014). See also 93 Cong. Rec. 3839, 6283; S. Rep. No. 105, 85th Cong., 1st Sess. 16.

Consequently, in discharging the duty Congress imposed on us to formulate the federal law to govern

§ 301 (a) suits, we are strongly guided by and do not give a niggardly reading to § 301 (b). "We would undercut the Act and defeat its policy if we read § 301 narrowly" (*Lincoln Mills*, 353 U. S. at 456). We have already said in another context that § 301 (b) at least evidences "a congressional intention that the union as an entity, like a corporation, should in the absence of agreement be the sole source of recovery for injury inflicted by it" (*Lewis* v. *Benedict Coal Corp.*, 353 U. S. 459, 470). This policy cannot be evaded or truncated by the simple device of suing union agents or members, whether in contract or tort, or both, in a separate count or in a separate action for damages for violation of a collective bargaining contract for which damages the union itself is liable. The national labor policy requires and we hold that when a union is liable for damages for violation of the no-strike clause, its officers and members are not liable for these damages. Here, Count II, as we have said, necessarily alleges union liability but prays for damages from the union agents. Where the union has inflicted the injury it alone must pay. Count II must be dismissed.[7]

The case is remanded to the District Court for further proceedings not inconsistent with this opinion.

It is so ordered.

MR. JUSTICE FRANKFURTER took no part in the consideration or decision of this case.

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[7] In reaching this conclusion, we have not ignored petitioner's argument that he drafted Count II in order to anticipate the possible union defense under Count I that the work stoppage was unauthorized by the union, and was a wildcat strike led by the 24 individual defendants acting not in behalf of the union but in their personal and nonunion capacity. The language of Count II contradicts the argument, however, and we therefore do not reach the question of whether the count would state a proper § 301 (a) claim if it charged unauthorized, individual action.

APPENDIX.

Article 26 provides:

"GRIEVANCE AND ARBITRATION PROCEDURE

"Definition

"1. A grievance is defined to be any difference regarding wages, hours or working conditions between the parties hereto or between the Employer and an employee covered by this working agreement which might arise within any plant or within any region of operations.

"Grievance Procedure

"It is the sincere desire of both parties that employees grievances be settled as fairly and as quickly as possible. Therefore, when a grievance arises, the following procedure must be followed:

"2. For the purpose of adjusting employee grievances and disputes as defined above, it is agreed that any employee, individually or accompanied by his committeeman, if desired shall:

"(a) Seek direct adjustment of any grievance or dispute with the foreman under whom he is employed. Such meeting will be without loss of time to the employee and/or his committeeman during regular working hours for time spent in conference with the foreman. The foreman shall reply to said employee within three (3) working days (Saturday, Sunday and Holidays excluded) from the date on which the grievance was first presented to him;

"(b) If the question is not then settled, the employee may submit his grievance in writing, on forms supplied by Union, to a committee selected as hereinafter provided for the particular plant or region in which such employee is employed. Such committee shall investigate said complaint and if in its opinion the grievance has merit, it shall have the right to meet with the local company superintendent or his representative, who shall receive the committee for this purpose. Written decisions shall be made by the local superintendent or his representative within ten (10) days after meeting with the committee, provided that prior to the time of or at the meeting with the committee such complaint or grievance has been submitted in writing to the local superintendent or his representative.

"(c) In exceptional cases, Workmen's Committees shall have the right to institute grievances concerning any alleged violation of this Agreement by filing written complaint with the official locally in charge.

"(d) Any grievance filed with or by the local Workmen's Committee can only be withdrawn with the Workmen's Committee's consent.

"3. No complaint or grievance shall be considered hereunder unless it is presented to the superintendent or official locally in charge within sixty (60) days from the date on which the complaint or grievance arose, or from the date on which the employee or employees concerned first learned of the cause of complaint.

"4. The committee above mentioned shall be selected from among and by employees of the Employer who are members of the Union. No official, foreman, or employee having authority to hire or discharge men shall serve on the committee.

"5. In case of discharge or lay-off, employees who may desire to file complaints must present such complaints within one (1) week after the effective date of discharge or lay-off to the committee mentioned in this Article. Before any such employee is to be discharged for cause, other than flagrant violation of rules, or is to be laid off, he shall be given a written notice, dated and signed by his foreman or other representative of the Employer, setting forth the reason for such discharge or lay-off. In the event an employee has been discharged for a flagrant violation of a company rule, he shall subsequently, upon request, be given a written notice, dated and signed by his foreman or other representative of the Employer setting forth the reason for such discharge. The Workmen's Committee will be furnished with a copy of the statement furnished to the employee, both where the discharge or lay-off is for cause or for flagrant violation of a Company rule. Any grievance to be filed under this section must be filed within forty (40) days from the effective date of the discharge or lay-off.

"6. In the event the decision of the superintendent or his representative shall not be satisfactory to the committee, it is agreed that the President of the Oil, Chemical and Atomic Workers International Union, AFL–CIO, or someone designated by him, shall, not later than forty-five (45) days after such decision, have the right to confer with the Director of Industrial Relations for the Sinclair Companies, or someone designated by him, for the purpose of discussing grievances or disputes and of obtaining decisions thereon. It is agreed that the Director of Industrial Relations for the Sinclair Companies, or someone designated by him, shall render a decision to the President of the Oil, Chemical and Atomic Workers International Union, AFL–CIO, within twenty (20) days after grievances or disputes have been so submitted to him in writing.

"7. If such decision is not satisfactory, then, upon request of the President or any District Director of the Oil, Chemical and Atomic Workers International Union, AFL–CIO and within sixty (60) days

from the posting date of the final appeal answer, there shall be set up a local Arbitration Board, and such grievances and disputes submitted to it within ten (10) days after formation of such Board. Such local boards may be set up at each refinery to deal with cases arising therefrom; cases arising from Sinclair Oil & Gas Company shall be heard and determined at Tulsa, Oklahoma; Fort Worth, Texas; Midland, Texas; or Casper, Wyoming; cases arising from Sinclair Pipe Line Company shall be heard and determined at the cities previously named or at Kansas City, Missouri; Toledo, Ohio; Houston, Texas; Chicago, Illinois; Philadelphia, Pennsylvania; or Independence, Kansas. These local Arbitration Boards shall consider only individual or local employee or local committee grievances arising under the application of the currently existing agreement, or supplements thereto, and local wage and classification disputes submitted on the initiative of the President or any District Director of the Oil, Chemical and Atomic Workers International Union, AFL–CIO. In this connection, Employer agrees to give consideration to local classification rate inequity complaints existing by reason of a comparison with the average of competitive rates of pay for like jobs having comparable duties and responsibilities being paid by agreed-upon major competitive companies in the local area. Such requests for adjustments of classification rate inequities, if any, shall be made not more frequently than twice annually, to be effective on February 1st and August 1st. Such requests to be submitted at least thirty (30) days prior to such semi-annual dates.

"8. The above mentioned local Arbitration Board shall be composed of one person designated by Employer and one designated by the President or District Director of the Oil, Chemical and Atomic Workers International Union, AFL–CIO. The board shall be requested by both parties to render a decision within seven (7) days from date of submission. Should the two members of the board selected as above provided, be unable to agree within seven (7) days, or to mutually agree upon an impartial third arbitrator, an impartial third member shall be selected within seven (7) days thereafter by the employer or employee member of the Arbitration Board, or such two parties jointly, requesting the Federal Mediation and Conciliation Service to submit a panel of arbitrators from which the third member of the board will be selected in accordance with the procedure of such Federal Mediation and Conciliation Service.

"9. The decision of the Board aforesaid, as provided in Section 8 hereof, shall be final. However, if the rules and conditions existing

at the time a given case originated are subsequently changed, it is understood that the arbitration award rendered under former rules and conditions shall not act to prohibit consideration of a complaint originating under the changed rules and conditions.

"10. Cases arising from the Gasoline Plants shall be considered as coming within the Producing Division in which they are located.

"11. The fee and expense of the impartial arbitrator selected as above provided shall be divided equally between the parties to such arbitration. The Parties agree to attempt to hold the arbitrator's fees to a reasonable basis."

SUPREME COURT OF THE UNITED STATES

No. 434.—October Term, 1961.

Sinclair Refining Company, Petitioner, *v.* Samuel M. Atkinson et al.	On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

[June 18, 1962.]

Mr. Justice Black delivered the opinion of the Court.

The question this case presents is whether § 301 of the Taft-Hartley Act, in giving federal courts jurisdiction of suits between employers and unions for breach of collective bargaining agreements,[1] impliedly repealed § 4 of the pre-existing Norris-LaGuardia Act, which, with certain exceptions not here material, barred federal courts from issuing injunctions "in any case involving or growing out of any labor dispute." [2]

[1] "Suits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce as defined in this chapter, or between any such labor organizations, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties." 61 Stat. 156, 29 U. S. C. § 185 (a).

[2] "No court of the United States shall have jurisdiction to issue any restraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute to prohibit any person or persons participating or interested in such dispute (as these terms are herein defined) from doing, whether singly or in concert, any of the following acts:

"(a) Ceasing or refusing to perform any work or to remain in any relation of employment;

. . . . . .

"(e) Giving publicity to the existence of, or the facts involved in,

The complaint here was filed by the petitioner Sinclair Refining Company against the Oil, Chemical and Atomic Workers International Union and Local 7–210 of that union and alleged: that the International Union, acting by and with the authority of the Local Union and its members, signed a written collective bargaining contract with Sinclair which provided for compulsory, final and binding arbitration of "any difference regarding wages, hours or working conditions between the parties hereto or between the Employer and an employee covered by this working agreement which might arise within any plant or within any region of operations;" that this contract also included express provisions by which the unions agreed that "there shall be no slowdowns for any reason whatsoever" and "no strikes or work stoppages . . . [f]or any cause which is or may be the subject of a grievance;" and that notwithstanding these promises in the collective bargaining contract the members of Local 7–210 had, over a period of some 19 months, engaged in work stoppages and strikes on nine separate occasions, each of which, the complaint charged, grew out of a grievance which could have been submitted to arbitration under the contract and therefore fell squarely within the unions' promises not to strike. This pattern of repeated, deliberate violations of the contract, Sinclair alleged, indicated a complete disregard on the part of the unions for their obligations under the contract and a probability that they would continue to "subvert the provisions of the contract" forbidding strikes over grievances in the future unless they were enjoined from doing so. In this situation Sinclair

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any labor dispute, whether by advertising, speaking, patrolling, or by any other method not involving fraud or violence;

. . . . . .

"(i) Advising, urging, or otherwise causing or inducing without fraud or violence the acts heretofore specified . . . ." 47 Stat. 70, 29 U. S. C. § 104.

claimed, there was no adequate remedy at law which would protect its contractual rights and the court should therefore enter orders enjoining the unions and their agents "preliminarily at first, and thereafter permanently, from aiding, abetting, fomenting, advising, participating in, ratifying, or condoning any strike, stoppage of work, slowdown or any other disruption of, or interference with normal employment or normal operation or production by any employee within the bargaining unit at plaintiff's East Chicago, Indiana refinery covered by the contract between the parties dated August 8, 1957, in support of, or because of, any matter or thing which is, or could be, the subject of a grievance under the grievance procedure of the said contract, or any extension thereof, or any other contract between the parties which shall contain like or similar provisions." [3]

The unions moved to dismiss this complaint on the ground that it sought injunctive relief which United States courts, by virtue of the Norris-LaGuardia Act, have no jurisdiction to give. The District Court first denied the motion, but subsequently, upon reconsideration after full oral argument, vacated its original order and granted the unions' motion to dismiss.[4] In reaching this conclusion, the District Court reasoned that the controversy between Sinclair and the unions was unquestionably a "labor dispute" within the meaning of the Norris-LaGuardia Act and that the complaint therefore came within the proscription of § 4 of that Act which "withdraws jurisdiction from the federal courts to issue injunctions to prohibit the refusal 'to perform work or remain in any relation of employment' in cases involving *any* labor dis-

[3] The suit filed by Sinclair was in three counts, only one of which, Count 3, is involved in this case. Counts 1 and 2, upon which Sinclair prevailed below, are also before the Court in No. 430. See *Atkinson* v. *Sinclair Refining Co.*, p. —, *post*, decided today.

[4] 187 F. Supp. 225.

pute." [5] The Court of Appeals for the Seventh Circuit affirmed the order of dismissal for the same reasons.[6] Because this decision presented a conflict with the decision on this same important question by the Court of Appeals for the Tenth Circuit,[7] we granted certiorari.[8]

We agree with the courts below that this case does involve a "labor dispute" within the meaning of the Norris-LaGuardia Act. Section 13 of that Act expressly defines a labor dispute as including "any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee." [9] Sinclair's own complaint shows quite plainly that each of the alleged nine work stoppages and strikes arose out of a controversy which was unquestionably well within this definition.[10]

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[5] *Id.*, at 228.

[6] 290 F. 2d 312.

[7] *Chauffeurs, Teamsters & Helpers Local No. 795* v. *Yellow Transit Freight Lines*, 282 F. 2d 345. Both the First and the Second Circuit have also considered this question and both have taken the same position as that taken below. See *W. L. Mead, Inc.*, v. *Teamsters Local No. 25*, 217 F. 2d 6; *Alcoa S. S. Co.* v. *McMahon*, 173 F. 2d 567; *Third Ave. Transit Corp.* v. *Quill*, 192 F. 2d 971; *A. H. Bull Steamship Co.* v. *Seafarers' International Union*, 250 F. 2d 326.

[8] 368 U. S. 937.

[9] 47 Stat. 73, 29 U. S. C. § 113.

[10] The allegations of the complaint with regard to the nine occurrences in question are as follows:

"(a) On or about July 1, 1957, six employees assigned to the #810 Crude Still stopped work in support of an asserted grievance involving the removal of Shift Machinists from the #810 Still area;

"(b) On or about September 17, 1957, all employees employed in the Mason Department refused to work on any shift during the entire day; the entire Mechanical Department refused to work from approximately noon until midnight; the employees of the Barrel House refused to work from the middle of the afternoon until midnight;

Nor does the circumstance that the alleged work stoppages and strikes may have constituted a breach of a collective bargaining agreement alter the plain fact that a "labor dispute" within the meaning of the Norris-

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a picket line was created which prevented operators from reporting to work on the 4:00 P. M. to midnight shift, all in support of an asserted grievance on behalf of five apprentice masons for whom insufficient work was available to permit their retention at craft levels.

"(c) On or about March 28, 1958, approximately 73 employees in the Rigging Department refused to work for approximately one hour in support of an asserted grievance that riggers were entitled to do certain work along with machinists.

"(d) On or about May 20, 1958, approximately 24 employees in the Rigging Department refused to work for 1¾ hours in support of an asserted grievance that riggers were entitled to do certain work along with boilermakers.

"(e) On or about September 11, 1958, approximately 24 employees in the Rigging Department refused to work for approximately two hours in support of an asserted grievance that pipefitters could not dismantle and remove certain pipe coils without riggers being employed on the said work also.

"(f) On or about October 6 and 7, 1958, approximately 43 employees in the Cranes and Trucks Department refused to work for approximately eight hours in support of an asserted grievance concerning employment by the Company of an independent contractor to operate a contractor owned crane.

"(g) On or about November 19, 1958, approximately 71 employees refused to work for approximately 3¾ hours in the Boilermaking Department in support of an asserted grievance that burners and riggers would not dismantle a tank roof without employment of boilermakers at the said task.

"(h) On or about November 21, 1958, in further pursuance of the asserted grievance referred to in subparagraph (g) preceding, the main entrance to the plant was picketed and barricaded, thereby preventing approximately 800 employees from reporting for work for an entire shift.

"(i) On or about February 13 and 14, 1959, approximately 999 employees were induced to stop work over an asserted grievance on behalf of three riggers that they should not have been docked an aggregate of $2.19 in their pay for having reported late to work."

LaGuardia Act is involved. Arguments to the contrary proceed from the premise that § 2 of that Act, which expresses the public policy upon which the specific anti-injunction provisions of the Act were based, contains language indicating that one primary concern of Congress was to insure workers the right "to exercise actual liberty of contract" and to protect "concerted activities for the purpose of collective bargaining." [11] From that premise, Sinclair argues that an interpretation of the term "labor dispute" so as to include a dispute arising out of a union's refusal to abide by the terms of a collective agreement to which it freely acceded is to apply the Norris-LaGuardia Act in a way that defeats one of the purposes for which it was enacted. But this argument, though forcefully urged both here and in much current commentary on this question,[12] rests more upon considerations of what many

[11] "In the interpretation of this Act and in determining the jurisdiction and authority of the courts of the United States, as such jurisdiction and authority are herein defined and limited, the public policy of the United States is hereby declared as follows:

"Whereas under prevailing economic conditions, developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership association, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment, wherefore, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; therefore, the following definitions of, and limitations upon, the jurisdiction and authority of the courts of the United States are enacted." 47 Stat. 70, 29 U. S. C. § 102.

[12] One of the most forthright arguments for judicial re-evaluation of the wisdom of the anti-injunction provisions of the Norris-LaGuardia Act and judicial rather than congressional revision of the meaning and

commentators think would be the more desirable industrial and labor policy in view of their understanding as to the prevailing circumstances of contemporary labor-management relations than upon what is a correct judicial interpretation of the language of the Act as it was written by Congress.

In the first place, even the general policy declarations of § 2 of the Norris-LaGuardia Act, which are the foundation of this whole argument, do not support the conclusion urged. That section does not purport to limit the Act to the protection of collective bargaining but, instead, expressly recognizes the need of the anti-injunction provisions to insure the right of workers to engage in "concerted activities for the purpose of collective bargaining *or other mutual aid or protection.*" Moreover, the language of the specific provisions of the Act is so broad and inclusive that it leaves not the slightest opening for reading in any exceptions beyond those clearly written into it by Congress itself.[13]

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scope of these provisions as applied to conduct in breach of a collective bargaining agreement is presented in Gregory, The Law of the Collective Agreement, 57 Mich. L. Rev. 635. That author, in urging that a strike in breach of a collective agreement should not now be held to involve or grow out of a "labor dispute" within the meaning of the Norris-LaGuardia Act, states: "After all, 1932 was a long time ago and conditions have changed drastically. Judges who still confuse violations of collective agreements with § 13 labor disputes and § 4 conduct have, in my opinion, lost contact with reality. The passage of time has operated as a function of many other types of judicial output at the highest level. I do not see why it should not do so in this instance, as well. *Id.*, at 645–646, n. 39. See also Stewart, No-Strike Clauses in the Federal Courts, 59 Mich. L. Rev. 673, especially at 683; Rice, A Paradox of our National Labor Law, 34 Marq. L. Rev. 233.

[13] Thus we conclude here precisely as we did in *Lauf* v. *E. G. Shinner & Co.*, 303 U. S. 323, 330: "We find nothing in the declarations of policy which narrows the definition of a labor dispute as found in the statutes. The rights of the parties and the jurisdiction of the federal courts are to be determined according to the express provisions applicable to labor disputes as so defined."

We cannot ignore the plain import of a congressional enactment, particularly one which, as we have repeatedly said, was deliberately drafted in the broadest of terms in order to avoid the danger that it would be narrowed by judicial construction.[14]

Since we hold that the present case does grow out of a "labor dispute," the injunction sought here runs squarely counter to the proscription of injunctions against strikes contained in § 4 (a) of the Norris-LaGuardia Act, to the proscription of injunctions against peaceful picketing contained in § 4 (e) and to the proscription of injunctions prohibiting the advising of such activities contained in § 4 (i).[15] For these reasons, the Norris-LaGuardia Act deprives the courts of the United States of jurisdiction to enter that injunction unless, as is contended here, the scope of that Act has been so narrowed by the subsequent enactment of § 301 of the Taft-Hartley Act that it no longer prohibits even the injunctions specifically described in § 4 where such injunctions are sought as a remedy for breach of a collective bargaining agreement. Upon consideration, we cannot agree with that view and agree instead with the view expressed by the courts below and supported by the Courts of Appeals for the First and Second Circuits that § 301 was not intended to have any such partially repealing effect upon such a long-standing, carefully thought out and highly significant part of this country's labor legislation as the Norris-LaGuardia Act.[16]

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[14] *United States* v. *Hutcheson*, 312 U. S. 219, 234, and cases cited therein.

[15] See note 2, *supra*.

[16] We need not here again go into the history of the Norris-LaGuardia Act nor the abuses which brought it into being for that has been amply discussed on several occasions. See Frankfurter and Greene, The Labor Injunction. And see *e. g.*, *United States* v. *Hutcheson*, 312 U. S. 219, 235–236; *Milk Wagon Drivers' Union* v. *Lake Valley Farm Products, Inc.*, 311 U. S. 91, 102–103. It is

The language of § 301 itself seems to us almost if not entirely conclusive of this question. It is especially significant that the section contains no language that could by any stretch of the imagination be interpreted to constitute an explicit repeal of the anti-injunction provisions of the Norris-LaGuardia Act in view of the fact that the section does expressly repeal another provision of the Norris-LaGuardia Act dealing with union responsibility for the acts of agents.[17] If Congress had intended that § 301 suits should also not be subject to the anti-injunction provisions of the Norris-LaGuardia Act, it certainly seems likely that it would have made its intent known in this same express manner. That is indeed precisely what Congress did do in §§ 101 (h) and 208 (b) of the Taft-Hartley Act, by permitting injunctions to be obtained, not by private litigants, but only at the instance of the National Labor Relations Board and the Attorney General,[18] and in § 302 (e), by permitting private litigants to

sufficient here to note that the reasons which led to the passage of the Act were substantial and that the Act has been an important part of the pattern of legislation under which unions have functioned for nearly 30 years.

[17] Section 301 (e) of the Act, 61 Stat. 156, 29 U. S. C. § 185 (e), provides: "For the purposes of this section, in determining whether any person is acting as an 'agent' of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling." This, of course, was designed to and did repeal for purposes of suits under § 301 the previously controlling provisions of § 6 of the Norris-LaGuardia Act, 47 Stat. 71, 29 U. S. C. § 106: "No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute, shall be held responsible or liable in any court of the United States for the unlawful acts of individual officers, members, or agents, except upon clear proof of actual participation in, or actual authorization of, such acts, or of ratification of such acts after actual knowledge thereof."

[18] 61 Stat. 146, 155, as amended, 29 U. S. C. §§ 160 (h), 178 (b).

obtain injunctions in order to protect the integrity of employees' collective bargaining representatives in carrying out their responsibilities.[19] Thus the failure of Congress to include a provision in § 301 expressly repealing the anti-injunction provisions of the Norris-LaGuardia Act must be evaluated in the context of a statutory pattern that indicates not only that Congress was completely familiar with those provisions but also that it regarded an express declaration of inapplicability as the normal and proper manner of repealing them in situations where such repeal seemed desirable.

When the inquiry is carried beyond the language of § 301 into its legislative history, whatever small doubts as to the congressional purpose could have survived consideration of the bare language of the section should be wholly dissipated. For the legislative history of § 301 shows that Congress actually considered the advisability of repealing the Norris-LaGuardia Act insofar as suits based upon breach of collective bargaining agreements are concerned and deliberately chose not to do so.[20] The

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[19] 61 Stat. 157, 29 U. S. C. § 186 (e). That this section, which stands alone in expressly permitting suits for injunctions previously proscribed by the Norris-LaGuardia Act to be brought in the federal courts by private litigants under the Taft-Hartley Act, deals with an unusually sensitive and important problem is shown by the fact § 186 makes the conduct so enjoinable a crime punishable by both fine and imprisonment.

[20] This fact was expressly recognized by the Court of Appeals for the Second Circuit in *A. H. Bull Steamship Co.* v. *Seafarers' International Union*, 250 F. 2d 326, 331–332. See also *W. L. Mead, Inc.*, v. *Teamsters Local No. 25*, 217 F. 2d 6, 9–10; Comment, Labor Injunctions and Judge-Made Law: The Contemporary Role of Norris-LaGuardia, 70 Yale L. J. 70, 97–99. Another commentator, though urging his own belief that a strike in breach of a collective agreement is not a "labor dispute" within the Norris-LaGuardia Act, nevertheless admits that Congress thought it was and deliberately decided to leave the anti-injunction provisions of that Act applicable to § 301 suits. See Rice, A Paradox of our National Labor Law, 34 Marq. L. Rev. 233, 235.

section as eventually enacted was the product of a conference between Committees of the House and Senate, selected to resolve the differences between conflicting provisions of the respective bills each had passed. Prior to this conference, the House bill had provided for federal jurisdiction of suits for breach of collective bargaining contracts and had expressly declared that the Norris-LaGuardia Act's anti-injunction provisions would not apply to such suits.[21] The bill passed by the Senate, like the House bill, granted federal courts jurisdiction over suits for breach of such agreements but it did not, like the House bill, make the Norris-LaGuardia Act's prohibition against injunctions inapplicable to such suits.[22] Instead it made breach of a collective agreement an unfair labor practice.[23] Under the Senate version, therefore, a breach of a collective bargaining agreement, like any unfair labor practice, would have been enjoined by a suit brought by

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[21] H. R. 3020, 80th Cong., 1st Sess., as it passed the House, provided:

"Sec. 302. (a) Any action for or proceeding involving a violation of an agreement between an employer and a labor organization or other representative of employees may be brought by either party in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, if such agreement affects commerce, or the court otherwise has jurisdiction of the cause.

. . . . . .

"(e) In actions and proceedings involving violations of agreements between an employer and a labor organization or other representative of employees, the provisions of the Act of March 23, 1932, entitled 'An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity and for other purposes,' shall not have any application in respect of either party." I Legislative History of the Labor Management Relations Act, 1947, 221–222.

[22] This is true both of the original Senate bill, S. 1126, as reported and of the amended House bill, H. R. 3020, as passed by the Senate. I Leg. Hist. 151–152; I Leg. Hist. 279–280.

[23] I Leg. Hist. 111–112, 114, 239, 241–242.

the National Labor Relations Board,[24] but no provision of the Senate version would have permitted the issuance of an injunction in a labor dispute at the suit of a private party. At the conference the provision of the House bill expressly repealing the anti-injunction provisions of the Norris-LaGuardia Act, as well as the provision of the bill passed by the Senate declaring the breach of a collective agreement to be an unfair labor practice, was dropped and never became law. Instead, the conferees, as indicated by the provision which came out of the conference and eventually became § 301, agreed that suits for breach of such agreements should remain wholly private and "be left to the usual processes of the law" [25] and that, in view of the fact that these suits would be at the instance of private parties rather than at the instance of the Labor Board, no change in the existing anti-injunction provisions of the Norris-LaGuardia Act should be made. The House Conference Report expressly recognized that the House provision for repeal in contract actions of the anti-injunction prohibitions of the Norris-LaGuardia Act had been eliminated in Conference:

> "Section 302 (e) of the House Bill made the Norris-LaGuardia Act inapplicable in actions and proceedings involving violations of agreements between an employer and a labor organization. Only part of this provision is included in the conference agreement. Section 6 of the Norris-LaGuardia Act provides that no employer or labor organization participating or interested in a labor dispute shall be held responsible for the unlawful acts of their agents

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[24] In such a situation, suit for injunction would be brought by the Board and, by virtue of § 10 (h) of the Act, 61 Stat. 146, 29 U. S. C. § 160 (h), the Norris-LaGuardia Act would not apply.

[25] H. R. Conf. Rep. No. 510, on H. R. 3020, 80th Cong., 1st Sess., pp. 41–42, I Leg. Hist. 545–546.

> except upon clear proof of actual authorization of such acts, or ratification of such acts after actual knowledge thereof. This provision in the Norris-LaGuardia Act was made inapplicable under the House bill. Section 301 (e) of the conference agreement provides that for the purposes of section 301 in determining whether any person is acting as an agent of another so as to make such other person responsible for his actions, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling." [26]

And Senator Taft, Chairman of the Conference Committee and one of the authors of this legislation that bore his name, was no less explicit in explaining the results of the Conference to the Senate: "The conferees . . . rejected the repeal of the Norris-LaGuardia Act." [27]

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[26] H. R. Conf. Rep. No. 510, on H. R. 3020, 80th Cong., 1st Sess., p. 66, I Leg. Hist. 570.

[27] 93 Cong. Rec. 6603, II Leg. Hist. 1544. Immediately prior to this remark, Senator Taft had inserted into the Record a written summary of his understanding as to the effect of the conference upon the bill passed by the Senate: "When the bill passed the Senate it also contained a sixth paragraph in this subsection [8 (a)] which made it an unfair labor practice for an employer to violate the terms of a collective-bargaining agreement or the terms of an agreement to submit a labor dispute to arbitration. The House conferees objected to this provision on the ground that it would have the effect of making the terms of every collective agreement subject to interpretation and determination by the Board, rather than by the courts. The Senate conferees ultimately agreed to its elimination as well as the decision of a similar provision contained in subsection 8 (b) (5) of the Senate amendment which made it an unfair labor practice for a labor organization to violate the terms of collective-bargaining agreements. The provisions of the Senate amendment *which conferred a right of action for damages* upon a party aggrieved by breach of a collective-bargaining contract, however, were retained in the conference agreement (section 301)." 93 Cong. Rec. 6600, II Leg. Hist. 1539. (Emphasis supplied.)

We cannot accept the startling argument made here that even though Congress did not itself want to repeal the Norris-LaGuardia Act, it was willing to confer a power upon the courts to "accommodate" that Act out of existence whenever they might find it expedient to do so in furtherance of some policy they had fashioned under § 301. The unequivocal statements in the House Conference Report and by Senator Taft on the floor of the Senate could only have been accepted by the Congressmen and Senators who read or heard them as assurances that they could vote in favor of § 301 without altering, reducing or impairing in any manner the anti-injunction provisions of the Norris-LaGuardia Act. This is particularly true of the statement of Senator Taft, a man generally regarded in the Senate as a very able lawyer and one upon whom the Senate could rely for accurate, forthright explanations of legislation with which he was connected. Senator Taft was of course entirely familiar with the prohibitions of the Norris-LaGuardia Act and the impact those prohibitions would have upon the enforcement under § 301 of all related contractual provisions, including contractual provisions dealing with arbitration. If, as this argument suggests, the intention of Congress in enacting § 301 was to clear the way for judicial obliteration of that Act under the soft euphemism of "accommodation," Senator Taft's flat statement that the Conference had rejected the repeal of the Norris-LaGuardia Act could only be regarded as disingenuous. We cannot impute any such intention to him.

Moreover, we think that the idea that § 301 sanctions piecemeal judicial repeal of the Norris-LaGuardia Act requires acceptance of a wholly unrealistic view of the manner in which Congress handles its business. The question of whether existing statutes should be continued in force or repealed is, under our system of government, one which is wholly within the domain of Congress.

When the repeal of a highly significant law is urged upon that body and that repeal is rejected after careful consideration and discussion, the normal expectation is that courts will be faithful to their trust and abide by that decision. This is especially so where the fact of the controversy over repeal and the resolution of that controversy in Congress plainly appears in the formal legislative history of its proceedings.[28] Indeed, not a single instance has been called to our attention in which a carefully considered and rejected proposal for repeal has been revived and adopted by this Court under the guise of "accommodation" or any other pseudonym.

Nor have we found anything else in the previous decisions of this Court that would indicate that we should disregard all this overwhelming evidence of a congressional intent to retain completely intact the anti-injunction prohibitions of the Norris-LaGuardia Act in suits brought under § 301. *Brotherhood of Railroad Trainmen* v. *Chicago River & Indiana R. Co.*,[29] upon which Sinclair places its primary reliance, is distinguishable on several grounds. There we were dealing with a strike called by the union in defiance of an affirmative duty, imposed upon the union

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[28] The legislative history of the Taft-Hartley Act shows that Congress actually considered and relied upon this normal functioning of the judicial power as insuring that no unintended repeal of the anti-injunction provisions of the Norris-LaGuardia Act would be declared. Thus Senator Taft, when pressed by Senator Morse with regard to the possibility that a provision inserted in § 303 (a) declaring secondary boycotts unlawful might be held to justify an injunction previously forbidden by the Norris-LaGuardia Act, stated: "Let me say in reply to the Senator or anyone else who makes the same argument, that that is not the intention of the author of the amendment. It is not his belief as to the effect of it. It is not the advice of counsel to the committee. Under those circumstances, I do not believe that any court would construe the amendment along the lines suggested by the Senator from Oregon." 93 Cong. Rec. 5074; II Leg. Hist. 1396.

[29] 353 U. S. 30.

by the Railway Labor Act itself, compelling unions to settle disputes as to the interpretation of an existing collective bargaining agreement, not by collective union pressures on the railroad but by submitting them to the Railroad Adjustment Board as the exclusive means of final determination of such "minor" disputes.[30] Here, on the other hand, we are dealing with a suit under a quite different law which does not itself compel a particular, exclusive method for settling disputes nor impose any requirement, either upon unions or employers, or upon the courts, that is in any way inconsistent with a continuation of the Norris-LaGuardia Act's proscription of federal labor injunctions against strikes and peaceful picketing. In addition, in *Chicago River* we were dealing with a statute that had a far different legislative history than the one now before us. Thus there was no indication in the legislative history of the Railway Labor Act, as there is in the history of § 301, that Congress had, after full debate and careful consideration by both Houses and in Joint Conference, specifically rejected proposals to make the prohibitions of the Norris-LaGuardia Act inapplicable. Indeed, the Court was able to conclude in *Chicago River* "that there was general understanding between both the supporters and the opponents of the 1934 amendment that the provisions dealing with the Adjustment Board were to be considered as compulsory arbitration in this limited field."[31] And certainly no one could contend that § 301 was intended to set up any such system of "compulsory arbitration" as the exclusive

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[30] The Court in *Chicago River* expressly recognized and rested its decision upon the differences between provisions for the settlement of disputes under the Railway Labor Act and the Taft-Hartley Act. *Id.*, at 31–32, n. 2. See also *Order of Railroad Telegraphers* v. *Chicago & Northwestern R. Co.*, 362 U. S. 330, 338–340.

[31] 353 U. S. 30, at 39.

method for settling grievances under the Taft-Hartley Act.

Textile Workers Union v. *Lincoln Mills*,[32] upon which some lesser reliance is placed, is equally distinguishable. There the Court held merely that it did not violate the anti-injunction provisions of the Norris-LaGuardia Act to compel the parties to a collective bargaining agreement to submit a dispute which had arisen under that agreement to arbitration where the agreement itself required arbitration of the dispute. In upholding the jurisdiction of the federal courts to issue such an order against a challenge based upon the Norris-LaGuardia Act, the Court pointed out that the equitable relief granted in that case—a mandatory injunction to carry out an agreement to arbitrate—did not enjoin any one of the kinds of conduct which the specific prohibitions of the Norris-LaGuardia Act withdrew from the injunctive powers of United States courts.[33] An injunction against work stoppages, peaceful picketing or the nonfraudulent encouraging of those activities would, however, prohibit the precise kinds of conduct which subsections (a), (e) and (i) of § 4 of the Norris-LaGuardia Act unequivocally say cannot be prohibited.[34]

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[32] 353 U. S. 448.

[33] *Id.*, at 458. See also *Order of Railroad Telegraphers* v. *Chicago & Northwestern R. Co.*, 362 U. S. 330, 338–339, where *Lincoln Mills* and other cases not involving an injunction against activity protected by § 4 of the Norris-LaGuardia Act were distinguished on this ground.

[34] An injunction against a strike or peaceful picketing in breach of a collective agreement "would require strong judicial creativity in the face of the plain meaning of Section 4," Cox, Current Problems in the Law of Grievance Arbitration, 30 Rocky Mountain L. Rev. 247, 256, for, indeed, such an injunction "would fly in the face of the plain words of Section 4 of Norris-LaGuardia Act, the historical purpose of which was to make peaceful concerted activities unenjoinable without regard to the nature of the labor dispute." *Id.*, at 253.

Nor can we agree with the argument made in this Court that the decision in *Lincoln Mills*, as implemented by the subsequent decisions in *United Steelworkers* v. *American Manufacturing Co.*,[35] *United Steelworkers* v. *Warrior & Gulf Navigation Co.*,[36] and *United Steelworkers* v. *Enterprise Wheel & Car Corp.*,[37] requires us to reconsider and overrule the action of Congress in refusing to repeal or modify the controlling commands of the Norris-LaGuardia Act. To the extent that those cases relied upon the proposition that the arbitration process is "a kingpin of federal labor policy," we think that proposition was founded not upon the policy predelictions of this Court but upon what Congress said and did when it enacted § 301. Certainly we cannot accept any suggestion which would undermine those cases by implying that the Court went beyond its proper power and itself "forged . . . a kingpin of federal labor policy" inconsistent with that section and its purpose. Consequently, we do not see how cases implementing the purpose of § 301 can be said to have freed this Court from its duty to give effect to the plainly expressed congressional purpose with regard to the continued application of the anti-injunction provisions of the Norris-LaGuardia Act. The argument to the contrary seems to rest upon the notion that injunctions against peaceful strikes are necessary to make the arbitration process effective. But whatever might be said about the merits of this argument, Congress has itself rejected it. In doing so, it set the limit to which it was willing to go in permitting courts to effectuate the congressional policy favoring arbitration and it is not this Court's business to review the wisdom of that decision.

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[35] 363 U. S. 564.
[36] 363 U. S. 574.
[37] 363 U. S. 593.

The plain fact is that § 301, as passed by Congress, presents no conflict at all with the anti-injunction provisions of the Norris-LaGuardia Act. Obedience to the congressional commands of the Norris-LaGuardia Act does not directly affect the "congressional policy in favor of the enforcement of agreements to arbitrate grievance disputes" [38] at all for it does not impair the right of an employer to obtain an order compelling arbitration of any dispute that may have been made arbitrable by the provisions of an effective collective bargaining agreement. At the most, what is involved is the question of whether the employer is to be allowed to enjoy the benefits of an injunction along with the right which Congress gave him in § 301 to sue for breach of a collective agreement. And as we have already pointed out, Congress was not willing to insure that enjoyment to an employer at the cost of putting the federal courts back into the business of enjoining strikes and other related peaceful union activities.

It is doubtless true, as argued, that the right to sue which § 301 gives employers would be worth more to them if they could also get a federal court injunction to bar a breach of their collective bargaining agreements. Strong arguments are made to us that it is highly desirable that the Norris-LaGuardia Act be changed in the public interest. If that is so, Congress itself might see fit to change that law and repeal the anti-injunction provisions of the Act insofar as suits for violation of collective agreements are concerned, as the House bill under consideration originally provided. It might, on the other hand, decide that if injunctions are necessary, the whole idea of enforcement of these agreements by private suits should be discarded in favor of enforcement through the administrative machinery of the Labor Board, as Senator Taft pro-

[38] *Textile Workers Union* v. *Lincoln Mills*, 353 U. S. 448, at 458–459.

vided in his Senate bill. Or it might decide that neither of these methods is entirely satisfactory and turn instead to a completely new approach. The question of what change, if any, should be made in the existing law is one of legislative policy properly within the exclusive domain of Congress—it is a question for law-makers, not law-interpreters. Our task is the more limited one of interpreting the law as it now stands. In dealing with problems of interpretation and application of federal statutes, we have no power to change deliberate choices of legislative policy that Congress has made within its constitutional powers. Where congressional intent is discernible—and here it seems crystal clear—we must give effect to that intent.[39]

The District Court was correct in dismissing Count 3 of petitioner's complaint for lack of jurisdiction under the Norris-LaGuardia Act. The judgment of the Court of Appeals affirming that order is therefore

Affirmed.

MR. JUSTICE FRANKFURTER took no part in the consideration or decision of this case.

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[39] We have not ignored Sinclair's argument that to apply the Norris-LaGuardia Act here would deprive it of its constitutional right to equal protection of the law, both because of an allegedly unlawful discrimination between Taft-Hartley Act employers and Railway Labor Act employers by virtue of the decision in *Chicago River*, and because of an allegedly unlawful discrimination between Taft-Hartley Act employers and unions by virtue of the decision in *Lincoln Mills*. We deem it sufficient to say that we do not find either of these arguments compelling.

SUPREME COURT OF THE UNITED STATES

No. 434.—October Term, 1961.

Sinclair Refining Company, Petitioner, *v.* Samuel M. Atkinson et al.	On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

[June 18, 1962.]

Mr. Justice Brennan, with whom Mr. Justice Douglas and Mr. Justice Harlan join, dissenting.

I believe that the Court has reached the wrong result because it has answered only the first of the questions which must be answered to decide this case. Of course § 301 of the Taft-Hartley Act did not, for purposes of actions brought under it, "repeal" § 4 of the Norris-LaGuardia Act. But the two provisions do coexist, and it is clear beyond dispute that they apply to the case before us in apparently conflicting senses. Our duty, therefore, is to seek out that accommodation of the two which will give the fullest possible effect to the central purposes of both. Since such accommodation is possible, the Court's failure to follow that path leads it to a result—not justified by either the language or history of § 301—which is wholly at odds with our earlier handling of directly analogous situations and which cannot be woven intelligibly into the broader fabric of related decisions.

I.

Section 301 of the Taft-Hartley Act, enacted in 1947, authorizes Federal District Courts to entertain "[s]uits for violation of contracts between an employer and a labor organization . . . ." It does not in terms address itself to the question of remedies. As we have construed § 301, it casts upon the District Courts a special responsibility to carry out contractual schemes for arbitration, by hold-

ing parties to that favored process for settlement when it has been contracted for, and by then regarding its result as conclusive.[1] At the same time, § 4 of the Norris-LaGuardia Act, enacted in 1932, proscribes the issuance by federal courts of injunctions against various concerted activities "in any case involving or growing out of any labor dispute." But the enjoining of a strike over an arbitrable grievance may be indispensable to the effective enforcement of an arbitration scheme in a collective agreement; thus the power to grant that injunctive remedy may be essential to the uncrippled performance of the Court's function under § 301.[2] Therefore, to hold that § 301 did not repeal § 4 is only a beginning. Having so held, the Court should—but does not—go on to consider how it is to deal with the surface conflict between the two statutory commands.

The Court has long acted upon the premise that the Norris-LaGuardia Act does not stand in isolation. It is one of several statutes which, taken together, shape the national labor policy. Accordingly, the Court has recognized that Norris-LaGuardia does not invariably bar injunctive relief when necessary to achieve an important objective of some other statute in the pattern of labor

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[1] *Textile Workers* v. *Lincoln Mills*, 353 U. S. 448; *Steelworkers* v. *American Mfg. Co.*, 363 U. S. 564; *Steelworkers* v. *Warrior & Gulf Co.*, 363 U. S. 574; *Steelworkers* v. *Enterprise Corp.*, 363 U. S. 593.

[2] In *Teamsters Local* v. *Lucas Flour Co.*, 369 U. S. 95, we held that a strike over a dispute which a contract provides shall be settled exclusively by binding arbitration is a breach of contract despite the absence of a no-strike clause, saying, at p. 105: "To hold otherwise would obviously do violence to accepted principles of traditional contract law. Even more in point, a contrary view would be completely at odds with the basic policy of national labor legislation to promote the arbitral process as a substitute for economic warfare." And in *Brotherhood of Railroad Trainmen* v. *Chicago River R. Co.*, 353 U. S. 30, 39, we recognized that allowing a strike over an arbitrable dispute would effectively "defeat the jurisdiction" of the arbitrator.

laws. See *Brotherhood of Railroad Trainmen* v. *Chicago River R. Co.*, 353 U. S. 30; *Graham* v. *Brotherhood of Locomotive Firemen*, 338 U. S. 232; *Virginian R. Co.* v. *System Federation*, 300 U. S. 515, 562–563. In *Chicago River* we insisted that there "must be an accommodation of [the Norris-LaGuardia Act] and the Railway Labor Act to that the obvious purpose in the enactment of each is preserved." [3]

These decisions refusing inflexible application of Norris-LaGuardia point to the necessity of a careful inquiry whether the surface conflict between § 301 and § 4 is irreconcilable in the setting before us: a strike over a grievance which both parties have agreed to settle by binding arbitration. I think that there is nothing in either the language of § 301 or its history to prevent § 4's here being accommodated with it, just as § 4 was accommodated with the Railway Labor Act.

II.

It cannot be denied that the availability of the injunctive remedy in this setting is far more necessary to the accomplishment of the purposes of § 301 than it would be detrimental to those of Norris-LaGuardia. *Chicago River* makes this plain. We there held that the federal courts, notwithstanding Norris-LaGuardia, may enjoin strikes over disputes as to the interpretation of an existing collective agreement, since such strikes flout the duty imposed on the union by the Railway Labor Act to settle such "minor disputes" by submission to the National Railroad Adjustment Board rather than by concerted economic pressures. We so held, even though the Railway Labor Act contains no express prohibition of strikes over "minor disputes," because we found it essential to the meaningful enforcement of that Act—and because the

[3] 353 U. S., at 40.

existence of mandatory arbitration eliminated one of the problems to which Norris-LaGuardia was chiefly addressed, namely, that "the injunction strips labor of its primary weapon without substituting any reasonable alternative." [4]

That reasoning is applicable with equal force to an injunction under § 301 to enforce a union's contractual duty, also binding on the employer, to submit certain disputes to terminal arbitration and to refrain from striking over them. The federal law embodied in § 301 stresses the effective enforcement of such arbitration agreements. When one of them is about to be sabotaged by a strike, § 301 has as strong a claim upon an accommodating interpretation of § 4 as does the compulsory arbitration law of the Railway Labor Act. It is equally true in both cases that "[an injunction] alone can effectively guard the plaintiff's right," *Machinists* v. *Street*, 367 U. S. 740, 773. It is equally true in both cases that the employer's specifically enforceable obligation to arbitrate provides a "reasonable alternative" to the strike weapon. It is equally true in both cases that a major contributing cause to the enactment of Norris-LaGuardia—the at-largeness of federal judges in enjoining activities thought to seek "unlawful ends" or to constitute "unlawful means" [5]—is not involved. Indeed, there is in this case a factor weighing in favor of the issuance of an injunction which was not present in *Chicago River:* [6] the express contractual commitment of the union to refrain from striking, viewed in light of the overriding purpose of § 301 to assist the enforcement of collective agreements.

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[4] *Id.*, at 41.

[5] See, *e. g.*, S. Rep. No. 163, 72d Cong., 1st Sess., p. 18; Frankfurter and Greene, The Labor Injunction, pp. 24–46, 200, 202.

[6] It is worth repeating that the Railway Labor Act incorporates no express prohibition of strikes over "minor disputes."

In any event, I should have thought that the question was settled by *Textile Workers* v. *Lincoln Mills*, 353 U. S. 448. In that case, the Court held that the procedural requirements of Norris-LaGuardia's § 7, although in terms fully applicable, would not apply so as to frustrate a federal court's effective enforcement under § 301 of an employer's obligation to arbitrate. It is strange, I think, that § 7 of the Norris-LaGuardia Act need not be read, in the face of § 301, to impose inapt procedural restrictions upon the specific enforcement of an employer's contractual duty to arbitrate; but that § 4 must be read, despite § 301, to preclude absolutely the issuance of an injunction against a strike which ignores a union's identical duty.

III.

The legislative history of § 301 affords the Court no refuge from the compelling effect of our prior decisions. That history shows that Congress considered and rejected "the advisability of repealing the Norris-LaGuardia Act insofar as suits based upon breach of collective bargaining agreements are concerned . . . ."[7] But congressional rejection of outright repeal certainly does not imply hostility to an attempt by the courts to accommodate all statutes pertinent to the decision of cases before them. Again, the Court's conclusion stems from putting the wrong question. When it is appreciated that there is no question here of "repeal," but rather one of how the Court is to apply the whole statutory complex to the case before it, it becomes clear that the legislative history does not support the Court's conclusion. First, however, it seems appropriate to discuss, as the Court has done, the language of § 301 considered in light of other provisions of the statute.

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[7] *Ante*, p. —.

There is nothing in the words of § 301 which so much as intimates any limitation to damage remedies when the asserted breach of contract consists of concerted activity. The section simply authorizes the District Courts to entertain and decide suits for violation of collective contracts. Taking the language alone, the irresistible implication would be that the District Courts were to employ their regular arsenal of remedies appropriately to the situation. That would mean, of course, that injunctive relief could be afforded when damages would not be an adequate remedy. This much, surely, is settled by *Lincoln Mills*. But the Court reasons that the failure of § 301 explicitly to repeal § 4 of Norris-LaGuardia completely negates the availability of injunctive relief in any case where that provision—in the absence of § 301—would apply. That reasoning stems from attaching undue significance to the fact that express repeal of Norris-LaGuardia provisions may be found in certain other sections of the Taft-Hartley Act—from which the Court concludes "not only that Congress was completely familiar with those provisions but also that it regarded an express declaration of inapplicability as the normal and proper manner of repealing them *in situations where such repeal seemed desirable*." [8] Even on this analysis the most that can be deduced from such a comparative reading is that while repeal of Norris-LaGuardia seemed desirable to Congress in certain other contexts, repeal did not seem desirable in connection with § 301.

Sound reasons explain why repeal of Norris-LaGuardia provisions, acceptable in other settings, might have been found ill-suited for the purpose of § 301. And those reasons fall far short of a design to preclude absolutely the issuance under § 301 of any injunction against an activity included in § 4 of Norris-LaGuardia. Section 10 (h) of

[8] *Ante*, p. —. (Emphasis added.)

the Act [9] simply lifts the § 4 barrier in connection with proceedings brought by the National Labor Relations Board—in the Courts of Appeals for enforcement of Board cease-and-desist orders against unfair labor practices, and in the District Courts for interlocutory relief against activities being prosecuted before the Board as unfair labor practices. This repeal in aid of government litigation to enforce carefully drafted prohibitions already in the Act as unfair labor practices was, obviously, entirely appropriate, definitely limited in scope, predictable in effect, and devoid of any risk of abuse or misunderstanding. Much the same is true of § 208 (b) of Taft-Hartley,[10] which simply repeals Norris-LaGuardia in a case where the Attorney General seeks an injunction at the direction of the President, who must be of the opinion—after having been advised by a board of inquiry—that continuation of the strike in question would imperil the national health and safety.

Only in § 302 (e) of Taft-Hartley [11] is there found a repeal of Norris-LaGuardia's anti-injunction provisions in favor of a suit by a private litigant.[12] The District Courts are there authorized to restrain the payment by employers and the acceptance by employee representatives of unauthorized payments in the nature of bribes. Not only is the problem thus dealt with "unusually sensitive and important," as the Court notes; [13] but the repeal of Norris-LaGuardia is clearly, predictably, and narrowly

[9] National Labor Relations Act, § 10 (h), 61 Stat. 149, 29 U. S. C. § 160 (h).

[10] 61 Stat. 155, 29 U. S. C. § 178.

[11] 61 Stat. 158, 29 U. S. C. § 186 (e).

[12] Section 301 (e), 61 Stat. 157, 29 U. S. C. § 185 (e), also mentioned by the Court, has no bearing on injunction problems. It repeals, for its purposes, § 6 of the Norris-LaGuardia Act, which deals with agency responsibility for concerted activities. Its only relevance here is in showing what is clear anyway: That § 301 effected no repeal of the anti-injunction provisions of Norris-LaGuardia.

[13] *Ante*, p. —.

confined to one kind of suit over one kind of injury; and obviously it presents no possible threat to the important purposes of that Act.

How different was the problem posed by § 301, which broadly authorized District Courts to decide suits for breach of contract. The Congress understandably may not have felt able to predict what provisions would crop up in collective bargaining agreements, to foresee the settings in which these would become subjects of litigation, or to forecast the rules of law which the courts would apply. The consequences of repealing the anti-injunction provisions in this context would have been completely unknowable, and outright repeal, therefore, might well have seemed unthinkable. Congress, clearly, had no intention of abandoning wholesale the Norris-LaGuardia policies in contract suits; but it does not follow that § 301 is not the equal of § 4 in cases which implicate both provisions.

Indeed, it might with as much force be said that Congress knew well how to limit remedies against employee activities to damages when that was what it intended, as that Congress knew how to repeal Norris-LaGuardia when *that* was what it intended. Section 303 of Taft-Hartley [14] authorizes private actions *for damages* resulting from certain concerted employee activities. When that section was introduced on the Senate floor, it provided for injunctive relief as well. Extended debate revealed strong sentiment against the injunction feature, which incorporated a repeal of Norris-LaGuardia. The section's supporters, therefore, proposed a different version which provided for damages only. In this form, the section was adopted by the Senate—and later by the Conference and the House.[15] Certainly, after this experience

[14] 29 U. S. C. § 187.

[15] See II Leg. Hist. 1323–1400; I Leg. Hist. 571.

Congress would have used language confining § 301 to damage remedies when it was invoked against concerted activity, if such had been the intention.

The statutory language thus fails to support the Court's position. The inference is at least as strong that Congress was content to rely upon the courts to resolve any seeming conflicts between § 301 and § 4 as they arose in the relatively manageable setting of particular cases, as that Congress intended to limit to damages the remedies courts could afford against concerted activities under § 301. The Court then should so exercise its judgment as best to effect the most important purposes of each statute. It should not be bound by inscrutable congressional silence to a wooden preference for one statute over the other.

Nor does the legislative history of § 301 suggest any different conclusion. As the Court notes, the House version would have repealed Norris-LaGuardia in suits brought under the new section.[16] The Senate version of § 301, like the section as enacted, did not deal with Norris-LaGuardia, but neither did it limit the remedies available against concerted activity.[17] Thus any attempt to ascertain the Senate's intention would face the same choices as those I have suggested in dealing with the language of § 301 as finally enacted. It follows that to construe the Conference Committee's elimination of the House repeal as leaving open the possibility of judicial accommodation is at least as reasonable as to conclude that Congress, by its silence, was directing the courts to disregard § 301 whenever opposition from § 4 was encountered.[18]

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[16] I Leg. Hist. 221–222.

[17] I Leg. Hist. 279–280.

[18] There is nothing in any Committee Report, or in any floor debate, which even intimates a confinement of § 301 remedies to damages in cases involving concerted activities. The only bit of legislative his-

I emphasize that the question in this case is not whether the basic policy embodied in Norris-LaGuardia against the injunction of activities of labor unions has been abandoned in actions under § 301; the question is simply whether injunctions are barred against strikes over grievances which have been routed to arbitration by a contract specifically enforceable against both the union and the employer. Enforced adherence to such arbitration commitments has emerged as a dominant motif in the developing federal law of collective bargaining agreements. But there is no general federal anti-strike policy; and although a suit may be brought under § 301 against strikes which, while they are breaches of private contracts, do not threaten any additional public policy, in such cases the anti-injunction policy of Norris-LaGuardia should prevail. Insistence upon strict application of Norris-LaGuardia to a strike over a dispute which both parties are bound by contract to arbitrate threatens a leading policy of our labor relations law. But there may be no such threat if the union has made no binding agreement to arbitrate; and if the employer cannot be compelled to arbitrate, restraining the strike would cut deep into the core of Norris-LaGuardia. Therefore, unless both parties are so bound, limiting an employer's remedy to damages might well be appropriate. The susceptibility of particular concrete situations to this sort of analysis shows that rejection of an outright repeal of § 4 was wholly consistent with acceptance of a technique of accommodation which would lead, in some cases, to the granting of injunctions against concerted activity. Accommodation requires only that the anti-injunction policy of Norris-LaGuardia not intrude into areas, not vital to its ends,

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tory which could is the statement of Senator Taft, quoted by the Court at note 27 of its opinion, which he inserted into the Congressional Record. What little significance that isolated insertion might have had has, of course, been laid to rest by *Lincoln Mills*.

where injunctive relief is vital to a purpose of § 301; it does not require unconditional surrender.

IV.

Today's decision cannot be fitted harmoniously into the pattern of prior decisions on analagous and related matters. Considered in their light, the decision leads inescapably to results consistent neither with any imaginable legislative purpose nor with sound judicial administration.

We have held that uniform doctrines of federal labor law are to be fashioned judicially in suits brought under § 301, *Textile Workers* v. *Lincoln Mills*, 353 U. S. 448; that actions based on collective agreements remain cognizable in state as well as federal courts, *Dowd Box Co.* v. *Courtney*, 368 U. S. 502; and that state courts must apply federal law in such actions, *Teamsters Local* v. *Lucas Flour Co.*, 369 U. S. 95.

The question arises whether today's prohibition of injunctive relief is to be carried over to state courts as a part of the federal law governing collective agreements. If so, § 301, a provision plainly designed to *enhance* the responsibility of unions to their contracts, will have had opposite effect of depriving employers of a state remedy they enjoyed prior to its enactment.

On the other hand if, as today's literal reading suggests [19] and as a leading state decision holds,[20] States remain free to apply their injunctive remedies against concerted activities in breach of contract, the development of a uniform body of federal contract law is in for hard times. So long as state courts remain free to grant the injunctions unavailable in federal courts, suits seeking relief against concerted activities in breach of contract will be channeled to the States whenever possible. Iron-

[19] Section 4 commences: "No court of the United States shall have jurisdiction to issue any restraining order . . . ."

[20] *McCarroll* v. *Los Angeles County District Council*, 49 Cal. 2d 45.

ically, state rather than federal courts will be the preferred instruments to protect the integrity of the arbitration process, which *Lincoln Mills* and the *Steelworkers* decisions forged into a kingpin of federal labor policy. Enunciation of uniform doctrines applicable in such cases will be severely impeded. Moreover, the type of relief available in a particular instance will turn on fortuities of locale and susceptibility to process—depending upon which States have anti-injunction statutes and how they construe them.

I have not overlooked the possibility that removal of the state suit to the federal court might provide the answer to these difficulties. But if § 4 is to be read literally, removal will not be allowed.[21] And if it is allowed, the result once again is that § 301 will have had the strange consequence of taking away a contract remedy available before its enactment.

V.

The decision deals a crippling blow to the cause of grievance arbitration itself. Arbitration is so highly regarded as a proved technique for industrial peace that even the Norris-LaGuardia Act fosters its use.[22] But since unions cannot be enjoined by a federal court from striking in open defiance of their undertakings to arbitrate, employers will pause long before committing themselves to obligations enforceable against them but not against their unions. The Court does not deny the desirability, indeed, necessity, for injunctive relief against a strike over an arbitrable grievance.[23] The Court says

[21] Compare note 19, *supra*, with the language of the removal statute, 28 U. S. C. § 1441, allowing removal in cases "of which the district courts of the United States have original jurisdiction."

[22] See Norris-LaGuardia Act, § 8, 47 Stat. 72, 29 U. S. C. § 108.

[23] The Court acknowledges, of course, that an employer may obtain an order directing a union to comply with its contract to arbitrate. Consistently with what we said in *Lucas*, *supra*, note 2, a strike in the face of such an order would risk a charge of contempt.

only that federal courts may not grant such relief, that Congress must amend § 4 if those courts are to give substance to the congressional plan of encouraging peaceable settlements of grievances through arbitration.

VI.

A District Court entertaining an action under § 301 may not grant injunctive relief against concerted activity unless and until it decides that the case is one in which an injunction would be appropriate despite the Norris-LaGuardia Act. When a strike is sought to be enjoined because it is over a grievance which both parties are contractually bound to arbitrate, the District Court may issue no injunctive order until it first holds that the contract *does* have that effect; and the employer should be ordered to arbitrate, as a condition of his obtaining an injunction against the strike. Beyond this, the District Court must, of course, consider whether issuance of an injunction would be warranted under ordinary principles of equity—whether breaches are occurring and will continue, or have been threatened and will be committed; whether they have caused or will cause irreparable injury to the employer; and whether the employer will suffer more from the denial of an injunction than will the union from its issuance.

In the case before us, the union enjoys the contractual right to make the employer submit to final and binding arbitration of any employee grievance. At the same time, the union agrees that "There shall be no strikes . . . for any cause which is or may be the subject of a grievance." [24] The complaint alleged that the union had, over the past several months, repeatedly engaged in "quickie" strikes over arbitrable grievances. Under the contract and the complaint, then, the District Court might conclude that there have occurred and will continue to occur

[24] See *Atkinson* v. *Sinclair Rfg. Co.*, decided this day.

breaches of contract of a type to which the principle of accommodation applies. It follows that rather than dismissing the complaint's request for an injunction, the Court should remand the case to the District Court with directions to consider whether to grant the relief sought—an injunction against future repetitions. This would entail a weighing of the employer's need for such an injunction against the harm that might be inflicted upon legitimate employee activity. It would call into question the feasibility of setting up *in futuro* contempt sanctions against the union (for striking) and against the employer (for refusing to arbitrate) in regard to prospective disputes which might fall more or less clearly into the adjudicated category of arbitrable grievances. In short, the District Court will have to consider with great care whether it is possible to draft a decree which would deal equitably with all the interests at stake.

I would reverse the Court of Appeals and remand to the District Court for further proceedings consistent with this dissenting opinion.